

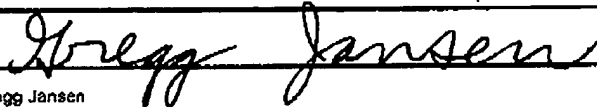
PTO/SB/21 (07-06)

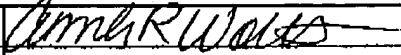
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/489,864	RECEIVED CENTRAL FAX CENTER FEB 06 2007
	Filing Date	1/24/2000	
	First Named Inventor	Allan L. Samson	
	Art Unit	2134	
	Examiner Name	Michael J. Simitoski	
Total Number of Pages in This Submission	8	Attorney Docket Number	35010/097

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The Ollila Law Group LLC
2060 Broadway
Suite 300
Boulder, Colorado 80302PATENT APPLICATION
ATTORNEY DOCKET NO. 35010/097IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Allan L. Samson et al.

Application No.: 09/489,864

Group No.: 2134

Filed: 01/24/2000

Examiner: Simitoski, Michael J.

For: SYSTEM FOR PREVENTING TAMPERING WITH SIGNAL CONDITIONER
REMOTE FROM A HOST SYSTEMMAIL STOP APPEAL BRIEF - PATENTS
COMMISSIONER FOR PATENTS
P. O. Box 1450
Alexandria, VA 22313-1450REPLY TO EXAMINER'S ANSWER

Applicants filed a Notice of Appeal on September 7, 2004. An appeal brief was subsequently filed by Applicants on November 1, 2004. An amended Appeal Brief was filed by Applicants on November 17, 2006 and an Examiner's Answer was received with a mailing date of January 19, 2007. Applicants herein submit a reply brief to the Examiner's Answer under 37 CFR 41.41.

The Examiner maintains the 35 U.S.C 112, first paragraph rejection of independent claims 1, 12, 23, and 34 as failing to comply with the written description requirement. The Examiner asserts that the limitation that "the host signals a tamper condition in the signal conditioning circuitry" was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In response, Applicants point to the language of the cited statute, which states that the written description of the invention shall use such full clear, concise, and exact terms

“as to enable any person skilled in the art” to make and use the invention. In the present application, the written description discloses that the host system requests authentication data from the signal conditioning circuitry, compares received authentication information to initial information stored in the host system, and the host system generates an error signal, wherein the invention is a system for preventing tampering with signal conditioning circuitry, as described at page 3, lines 21-32 in the written description. In addition, the description teaches that the “tamper proof system in accordance with this invention stores a record of authentication data transmitted to the host system 100 from the signal conditioner 110 to ensure that someone does not tamper with signal conditioner 110” (see page 7, lines 26-29). The written description further discloses that the processing unit 102 (of the host system) may “generate a signal indicating possible tampering . . .” (see page 8, lines 20-21). A person skilled in the art would understand that the above description comprises the host system signaling a tampering condition. The Examiner is reading the word “in” to imply that the signal is in the signal conditioning circuitry. This is incorrect. The word “in” denotes that the tamper condition is in the signal conditioning circuitry.

It is curious that the Examiner’s Answer makes the argument at one point that the tampering signal is in the signal conditioning circuitry, and then turns around and draws the obvious conclusion that “‘signal a tampering condition in the signal conditioning circuitry’ is understood to be equivalent to ‘signal a tampering condition, indicative of a tampering condition existing in the signal conditioning circuitry’”. It is unclear why this reasoning only extends to the 35 U.S.C. § 112, second paragraph rejection and not to the 35 U.S.C. § 112, first paragraph rejection.

According to the Examiner’s Answer, the rejections of claims 1, 12, 23, and 34 under 35 U.S.C. § 112, second paragraph, have been withdrawn.

The Examiner’s Answer maintains the rejection of independent claim 1 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,388,690 (Lumsden). The Examiner’s Answer incorrectly asserts three erroneous points.

First, the Examiner’s Answer asserts that Lumsden includes an “authentication

information/word set", and cites col. 8, line 54 through col. 9, line 6 of Lumsden in support of this assertion. This is incorrect and the Examiner's Answer completely mischaracterizes the "data word set" of Lumsden (Lumsden's terminology). Lumsden does disclose a transponder identifier embedded in the data word set, along with a customer identification code (see col. 8, lines 54-60). In addition, the data word set includes three data words that include an instruction code and control bits, data to be sent to the transponder, and a block parity word (see col. 6, line 49 to col. 7, line 37). The transponder identifier is used by the particular transponder to determine whether to accept an instruction word set from the central computer (see col. 2, lines 48-53 and col. 6, lines 56-67). In addition, the central computer can use the transponder identifier to determine which transponder a message is received from. Therefore, Lumsden uses the transponder identifier only as an address for sending and receiving communications. In addition, Lumsden appears to compare data received from the transponder to some manner of stored power consumption threshold (see col. 4, lines 25-40). Use of a communication address or a comparison of received measured power consumption parameters in the central computer of Lumsden would NOT identify possible tampering.

The present application discloses that the authentication data can be a unique identification, calibration data, or other forms of data that does not change over time (see page 8, lines 2-4).

Second, the Examiner's Answer asserts that Lumsden compares an "authentication information/word set" with initial information comprising a transponder identification code, a customer identification code, and a predetermined quota, and cites col. 8, lines 54-65 and col. 4, lines 35-40 in support of this assertion. Applicants have reviewed the cited lines, and find no description or suggestion that the central computer compares the transponder identifier or customer identifier to any manner of "initial" information. In addition, Applicants find no description or suggestion that Lumsden detects a change between the transponder identifier and an initial information. Furthermore, Lumsden does not disclose making a tampering determination based on the transponder identifier or the customer identifier.

Third, the Examiner's Answer asserts that Lumsden signals a "tampering condition/load shed" in the signal conditioning circuitry/transponder in response to an

authentication information/word set not being equal to an initial information, and cites col. 4, lines 35-40 in support of this assertion. This is incorrect in several ways. The "initial information" asserted by the Examiner's Answer merely comprises a power usage threshold. There is no indication in Lumsden that the threshold is "initial" in any way, and the threshold could likely be changed at any time by an associated power company. Lumsden does not signal a tampering condition. As previously asserted by Applicants, Lumsden does not anywhere use the word "tamper" or allude to any tampering detection. The assertion in the Examiner's Answer that Lumsden includes signaling a tampering condition is completely without merit and is incorrect. Furthermore, the Examiner's Answer asserts that Lumsden signals a tampering condition in response to an authentication information/word set not being equal to an initial information. This is also incorrect. Lumsden signals a load shed operation if power consumption exceeds a threshold (see col. 4, lines 34-40).

The Examiner's Answer maintains the rejection of independent claim 12 under 35 U.S.C. § 103(a) as being obvious over Lumsden in view of U.S. Patent No. 6,526,839 (Barger et al.) and further in view of U.S. Patent No. 3,355,944 (Sipin). The Examiner's Answer incorrectly asserts that Lumsden includes an "authentication information/word set", as refuted above. The Examiner's Answer incorrectly asserts that Lumsden compares "authentication information/word set" with "initial information", as refuted above.

The Examiner's Answer incorrectly asserts that Lumsden signals a "tampering condition/load shed" in the signal conditioning circuitry/transponder in response to an "authentication information/word set" not being equal to the "initial information", as refuted above.

In the Response to Arguments section and with regard to the 35 U.S.C. § 112, first paragraph rejections, the Examiner's Answer asserts that none of the cited sections of the specification disclose that "the host signals a tamper condition in the signal conditioning circuitry." The Examiner's Answer further asserts that the claim "recites

that the host signals a tampering condition, but contradicts this by reciting that the tampering signal is in the signal conditioning circuitry."

It appears that the Examiner is confused about the actions being performed by the two components. The host receives information from the signal conditioning circuitry. The host compares the information. If the comparison shows a change in the information, then the host signals an error. The signaling occurs in the host, but the signaling indicates that the host has detected possible tampering or other error in the signal conditioning device. Such signaling is common in a host system, wherein the host system performs monitoring and signaling of a condition that has occurred in a remote device. The claims as they stand are not indefinite.

The Examiner's Answer implies that there is a difference between "a signal indicating possible tampering or other type of error" and a "tampering condition". A signal indicating possible tampering is indistinguishable from a tampering condition. The distinction attempted to be drawn in the Examiner's Answer is without merit.

The Examiner's Answer attempts to further imply that because the host detects "possible tampering", that it would be improper and incorrect for the patent application to claim a "tampering condition". Again, the distinction attempted in the Examiner's Answer is without merit, as the signaling of a tampering condition can indicate possible tampering in the signal conditioning device.

In the Response to Arguments section and with regard to the 35.U.S.C. 102(b) rejections of claims 1-3, 8, 9, 34-36, 41, and 43, the Examiner's Answer asserts that "[t]he nature of 'tampering' by a third party is out of the control of both the instant invention and the invention of Lumsden." It is unclear why such a statement was made or how it contributes in any way to resolving the issues. The Examiner's Answer goes on to state that "To perform the comparison operation is to detect tampering . . . regardless of the nature of the act of tampering or the nature of the third party that performs the tampering." This assertion is illogical on its face. The illogic of the assertion can be disproved by application of this reasoning to the transponder identifier. As a result, the Examiner's Answer is arguing that the comparison by the transponder

of a received transponder identifier within a communication message to it's own address is a detection of tampering. It is not a detection of tampering; it is merely an identification process. Furthermore, comparing power consumption information to some manner of threshold in order to perform load shedding operations is also not detecting of tampering. Customers are allowed and expected to consume power beyond the threshold on occasion. The goal of Lumsden is to be able to reduce power consumption by turning off appliances or loads that consume high levels of electrical power. Consumers are not tampering with the transponder. Consumers are not tampering by using electrical power beyond the threshold.

In comparison, changing of the authentication information in the signal conditioning device of the present application is not allowed and will result in an error condition being signaled by the host. A change to the authentication information cannot be performed by just anyone. Where the changing of the authentication system is not intended to be tampering, a change to the authentication information will require a corresponding updating of the information stored in the host system.

The Examiner's Answer asserts that "any data compared by Lumsden can indicate possible tampering; this tampering includes an excess usage of electricity." This assertion is a complete overstatement. Lumsden does not disclose detecting tampering. The Examiner is improperly creating such a detection in Lumsden.

In view of the above, Applicants respectfully request that the examiner's rejection of claims 1-44 be reversed.

Respectfully submitted,

Date: 2/6/07


SIGNATURE OF PRACTITIONER

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